IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 42 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GANDEVI TALUKA KHEDUT SAHAKARISANGH LTD

Versus

COMMISSIONER OF INCOME TAX

Appearance:
MR RK PATEL for Petitioner
MR AKIL QURESHI for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 11/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee, the following question has been referred to us

in respect of assessment year 1978-79 :-

"Whether the Tribunal was justified in law in confirming the order as to the bifurcating of expenses against different type of incomes and in recomputing the amount of profits and gains attributable to activities specified in Section 80P(2)(a)(iv) of the Act ?"

2. At the instance of this very assessee an identical question was referred and came to be considered by this Court in Gandevi Taluka Khedut Sahakari Sangh Ltd. vs. CIT, (1994) 207 ITR 175.

After considering the relevant statutory provisions of the Act, this Court came to the conclusion that in view of the settled legal position, while granting deducting under section 80P(2)(a)(iv), only the net income attributable to the activities under section 80P(2)(a)(iv) of the Act for the purchase of agricultural implements, livestock, etc., intended for supplying to agriculturists which was included in the gross total income could be deducted and not the gross total income from activities.

3. In view of the above discussion, the question is answered in the affirmative i.e. in favour of the revenue and against the assessee.

The reference accordingly stands disposed of with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-